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IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

STATE OF DELAWARE,
Plaintiff,

STATE OF TEXAS,
Plaintiff-Intervenor,
v.

STATE OF NEW YORK,
Defendant.

APPENDIX TO THE BRIEF OF THE STATES OF ARKANSAS, FLORIDA, IOWA, MISSISSIPPI, MISSOURI, NEW HAMPSHIRE AND WEST VIRGINIA, IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION

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APPENDIX

RELEVANT PROVISIONS OF PLAINTIFFS' IN INTERVENTION UNCLAIMED PROPERTY STATUTES

ARKANSAS

Ark. Stat. Ann. §§ 18-28-201 to 18-28-213 (1987 & Supp. 1987)

18-28-201. Definitions and use of terms.

As used in this subchapter, unless the context otherwise requires:

* * * *

(2) "Business association" means any corporation, other than a public corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;

* * * *

(4) "Holder" means any person in possession of property subject to this subchapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this subchapter;

* * * *

(6) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this subchapter, or his legal representative;

(7) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity;

* * * *

(9) "Auditor" means the Auditor of the State of Arkansas or his designee.

(10) (A) "Intangible property" includes:

(i) Moneys, checks, drafts, deposits, interest, dividends, and income;

(ii) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(iii) Stocks and other intangible ownership interests in business associations;

(iv) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(v) Amounts due and payable under the terms of insurance policies; and

(vi) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits;

(B) All abandoned property not covered as intangible will be considered tangible;

* * * *

(14) "Underlying shares" means an ownership interest in a business association, the evidence of which, generally a stock certificate, is in the possession of the missing owner.

* * * *

18-28-205. Undistributed dividends and distributions of business associations.

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on prin-

cipal, or other sum held or owing by a business association for, or to, a shareholder, certificate holder, bondholder, or other security holder, who has not claimed it, or corresponded in writing with the business association concerning it, within seven (7) years after the date prescribed for payment or delivery, is presumed abandoned if:

(a) It is held or owing by a business association organized under the laws of, or created in, this state; or

(b) It is held or owing by a business association doing business in this state, but not organized under the laws of, or created in, this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

(c) Underlying shares are presumed abandoned when the owner fails to exercise rights of ownership, including, but not limited to, cashing dividend checks or communicating with the company which issued the stock within a seven-year period. Underlying shares, regardless of when issued, shall be considered subject to this subchapter.

* * * *

18-28-209. Miscellaneous personal property held for another person.

All intangible personal property, not otherwise covered by this subchapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable is presumed abandoned.

* * * *

18-28-211. Report of abandoned property.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this

subchapter shall report to the Auditor of State with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of one hundred dollars ($100) or more presumed abandoned under this subchapter;

(2) In the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars ($100) each may be reported in aggregate;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the Auditor of State prescribes by rule as necessary for the administration of this subchapter.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 of the same year. The Auditor of State may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this subchapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder, before filing the annual report, shall communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and, if made by a public corporation, by its chief fiscal officer.

* * * *

18-28-213. Payment or delivery of abandoned property.

Every person who has filed a report under § 18-28-211 within twenty (20) days after the time specified in § 18-28-212 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under § 18-28-202 within twenty (20) days after the filing of the report, shall pay or deliver to the Auditor of State all abandoned property specified in this report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in § 18-28-212, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Auditor of State, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

FLORIDA

Fla. Stat. Ann. §§ 717.101 to 717.119 (West 1988)

717.101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

* * * *

(3) "Business association" means any corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

(4) "Department" means the Department of Banking and Finance.

(5) "Domicile" means the state of incorporation, in the case of a corporation incorporated under the laws of a state, and the state of the principal place of business, in the case of a person not incorporated under the laws of a state.

* * * *

(7) "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee in case of a trust; or

(c) Indebted to another on an obligation.

* * * *

(9) "Intangible property" includes, by way of illustration and not limitation:

(a) Moneys, checks, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.

(d) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(10) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(11) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, a claimant, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his legal representative.

(12) "Reportable period" means the fiscal year ending June 30 of each year, except for life insurance companies where reportable period means the calendar year ending December 31. Except as in the case of life insurance companies, the first unclaimed property reportable under this chapter shall be for the fiscal year beginning July 1, 1987, and ending June 30, 1988, and the report due under this chapter shall be filed no later than November 1, 1988. In

the case of life insurance companies, the first unclaimed property reportable under this chapter shall be for the calendar year beginning January 1, 1988, and ending December 31, 1988, and the report due under this chapter shall be filed no later than May 1, 1989.

(13) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

* * * *

717.102. Property presumed abandoned; general rule.

(1) All intangible property, including any income or increment thereon less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than 5 years after it becomes payable or distributable is presumed abandoned, except as otherwise provided by this chapter.

(2) Property is payable or distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

717.103. General rules for taking custody of intangible unclaimed property.

Unless otherwise provided in this chapter or by other statute of this state, intangible property is subject to the custody of the department as unclaimed property if the conditions leading to a presumption of abandonment as described in s. 717.102 and ss. 717.105-717.116 are satisfied and:

(1) The last known address, as shown on the records of the holder, of the apparent owner is in this state;

(2) The records of the holder do not reflect the identity of the person entitled to the property, and it is estab-

lished that the last known address of the person entitled to the property is in this state;

(3) The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(a) The last known address of the person entitled to the property is in this state; or

(b) The holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner or other person entitled to the property;

(4) The last known address, as shown on the records of the holder, of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

(5) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or

(6) The transaction out of which the property arose occurred in this state, and;

(a)1. The last known address of the apparent owner or other person entitled to the property is unknown; or

2. The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property; and

(b) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

* * * *

717.1101. Stock and other intangible interests in business associations.

(1) Except as provided in subsections (2) and (5), any stock or other intangible ownership interest in a business association, the existence of which is evidenced by record available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has for 7 years remained unclaimed by the owner and the owner has not within 7 years:

(a) Communicated in writing with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

(b) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or its agent prepared by an employee of the association or its agent.

(2) At the expiration of a 7-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest shall not be presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed. If seven dividends, distributions, or other sums are paid during the 7-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, dis-

tribution, or other sum became due and payable. If seven dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven dividends, distributions, or other sums that have not been claimed by the owner.

(3) The running of the 7-year period of abandonment ceases immediately upon the occurrence of one or more of the conditions referred to in subsection (1). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back only to the time a subsequent dividend, distribution, or other sum became due and payable.

(4) At the same time any interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

(5) This chapter shall not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within 7 years satisfied any of the conditions referred to in subsection (1).

* * * *

717.117. Report of abandoned property.

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the department with respect to the property as provided in this section.

(2) The report shall be verified. Verification of a private corporation or unincorporated association shall be made by an officer; of a partnership, by a partner; and of a public corporation, by its chief fiscal officer. The report must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of a value of $25 or more presumed abandoned under this chapter.

(b) In the case of unclaimed funds of $25 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds.

(c) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the department, and any amounts owing to the holder.

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under $25 each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Other information which the department prescribes by rule as necessary for the administration of this chapter.

(3) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the prop-

erty for the apparent owner or the holder has changed his name while holding the property, he shall file with his report all known names and addresses of each previous holder of the property.

(4) The report must be filed before November 1 of each year as of June 30, next preceding, but the report of any life insurance company must be filed before May 1 of each year as of December 31, next preceding. If such report is not filed on or before the applicable filing date, the holder shall pay to the department a penalty of $10 per day for each day the report is delinquent, but such penalty shall not exceed $500. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. On written request by any person required to file a report, the department may postpone the reporting date.

(5) Not more than 120 days prior to filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate.

(b) The claim of the apparent owner is not barred by the statute of limitations.

(6) Any holder of intangible property may file with the department a petition for determination that the property is abandoned requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (2), and show that a diligent search has been made to locate the owner. If the depart-

ment finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

* * * *

717.119. Payment or delivery of abandoned property.

(1) Except as otherwise provided in subsections (2) and (3), every person who is required to file a report under s. 717.117 shall, within 6 months after the final date for filing the report as required by s. 717.117, pay or deliver to the department all abandoned property required to be reported.

(2) If the owner establishes the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the department, which will no longer be presumed abandoned, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(3) Property reported under s. 717.117 for which the holder is not required to report the name of the apparent owner must be delivered to the department at the time of filing the report.

(4) The holder of any interest under s. 717.1101 shall deliver a duplicate certificate, or other evidence of ownership if the holder does not issue certificates of ownership, to the department. Upon delivery of a duplicate certificate to the department, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person, including any person acquiring the original certificate or the duplicate of the certificates issued to the department,

for any losses or damages resulting to the person by the issuance and delivery to the department of the duplicate certificate.

(5) Any holder may request an extension in writing of up to 60 days for the delivery of property if extenuating circumstances exist for the late delivery of the property, and the department may grant such an extension in writing.

IOWA

Iowa Code Ann. §§ 556.1 to 556.13 (West Supp. 1989)

556.1. Definitions and use of terms.

As used in this chapter, unless the context otherwise requires:

* * * *

2. "Business association" means any corporation other than a public corporation, joint stock company, business trust, partnership, or any association for business purposes of two or more individuals.

* * * *

4. "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

* * * *

6. "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his legal representative.

7. "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

* * * *

556.5. Stocks and other intangible interests in business associations

1. Except as provided in subsections 2 and 5, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with

respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for seven years and the owner within seven years has not:

a. Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest.

b. Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

2. At the expiration of a seven-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven dividends, distributions, or other sums are paid during the seven-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable. If seven dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven dividends, distributions, or other sums that have not been claimed by the owner.

3. The running of the seven-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection 1. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

4. At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously abandoned, is presumed abandoned.

5. This section does not apply to any stock or other intangible ownership of interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the treasurer of state show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within seven years communicated in any manner described in subsection 1.

6. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within five years after the date prescribed for payment or delivery, is presumed abandoned.

* * * *

556.9. Miscellaneous personal property held for another person.

All intangible personal property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

* * * *

556.11. Report of abandoned property.

1. Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the state treasurer with respect to the property as hereinafter provided.

2. The report shall be verified and shall include:

a. Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of twenty-five dollars or more presumed abandoned under this chapter.

b. In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and the insured's or annuitant's last known address according to the life insurance corporation's records.

c. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars each may be reported in aggregate.

d. The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

e. Other information which the state treasurer prescribes by rule as necessary for the administration of this chapter.

3. If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed names while holding the property, the holder shall file with the holder's report all prior known names and addresses of each holder of the property.

4. The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life

insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The state treasurer may postpone the reporting date upon written request by any person required to file a report.

5. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

6. Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

7. The initial report filed under this chapter shall include all items of property that would have been presumed abandoned if this chapter had been in effect during the ten-year period preceding its effective date.

* * * *

* * * *

556.13. Payment or delivery of abandoned property.

Every person who has filed a report under section 556.11, within twenty days after the time specified in section 556.12 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under section 556.2 or property for which the holder is not required to report the name of the owner shall, at the time of filing the report, pay or deliver to the treasurer of state all abandoned property specified in this report, except that, if the owner establishes the owner's right to receive the abandoned property to the satisfaction of the holder within

the time specified in section 556.12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the treasurer of state, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

MISSISSIPPI

Miss. Code Ann. §§ 89-12-3 to 89-12-29 (Supp. 1989)

§ 89-12-3. Definitions.

As used in this chapter, unless the context otherwise requires:

* * * *

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals, whether organized for profit or nonprofit, including, but not limited to, a banking organization, financial organization, life insurance corporation and utility.

* * * *

(d) "Holder" means any person in possession of property subject to the provisions of this act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the provisions of this chapter.

* * * *

(f) "Intangible personal property" means:

(i) Monies, checks, drafts, deposits, interest, dividends, and income;

(ii) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(iii) Monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(iv) Amounts due and payable under the terms of insurance policies; and

(v) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

"Intangible personal property" shall not include stocks and other intangible ownership interests in business associations.

(g) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to the provisions of this act, or his legal representative.

(h) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

(i) "Person" means any individual, business association, government or political subdivision or agency other than the United States government or any officer, department or agency thereof, corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity whether such person is acting in his own right or in a representative capacity.

(j) "Treasurer" means the state treasurer of the State of Mississippi.

* * * *

§ 89-12-11. Presumed abandonment of dividend, interest and the like held or owing by business association for or to shareholder, bondholder and the like.

Subject to the provisions of section 89-12-17, any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bond-

holder, or other security holder, or a participating patron of a cooperative, who has not claimed it or corresponded in writing with the business association concerning it within seven (7) years after the date prescribed for payment or delivery, shall be presumed abandoned. However, the property presumed abandoned under this chapter shall not include capital credits or patronage refunds offered for payment by nonprofit cooperative electric power associations or nonprofit cooperative water and sewer associations, but rather such unclaimed funds shall be used for the benefit of the general membership of such associations.

* * * *

§ 89-12-15. Presumed abandonment of intangible personal property held in ordinary course of holder's business.

All intangible personal property not otherwise covered by the provisions of this chapter, including any income or increment thereon and deducting any charges that may have accrued, that is held in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable shall be presumed abandoned.

§ 89-12-17. Additional conditions for presumption of abandonment of intangible personal property.

Unless otherwise provided by statute of this state, intangible personal property shall be presumed abandoned under the provisions of this chapter if the conditions for presumption of abandonment stated in the provisions of this chapter exist, and if:

(a) The last-known address of the apparent owner is in this state as shown on the records of the holder; or

(b) No address of the apparent owner appears on the records of the holder, and

(i) The last-known address of the apparent owner is in this state, or

(ii) The holder is domiciled in this state and has not previously paid the property to the state of the last-known address of the apparent owner, or

(iii) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last-known address of the apparent owner; or

(c) The last-known address of the apparent owner, as shown on the records of the holder, is in a state designated by regulation adopted by the treasurer as a state that does not provide by law for presumption of abandonment or escheat of such property and the holder is

(i) Domiciled in this state, or

(ii) A government or governmental subdivision or agency of this state; or

(d) The last-known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is

(i) Domiciled in the state, or

(ii) A government or governmental subdivision or agency of this state.

* * * *

§ 89-12-23. Report to treasurer by holder of property presumed abandoned.

(1) Every person holding funds or other intangible personal property presumed abandoned under the provisions of this chapter shall report to the treasurer with respect to the property as hereinafter provided.

(2) The report shall be verified, shall be on a form prescribed or approved by the treasurer, and shall include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of more than one hundred dollars ($100.00) presumed abandoned under the provisions of this chapter;

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(c) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars ($100.00) each may be reported in aggregate;

(d) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(e) Other information which the treasurer prescribes by regulation as necessary for the administration of this chapter.

(3) If the person holding property presumed abandoned under the provisions of this chapter is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior-known names and addresses of each holder of the property.

(4) The report shall be filed annually through 1984, or for life insurance corporations, through 1985, and reports shall be filed every third year thereafter. The report shall be filed before November 1 of each year in which a report is required as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1

of each year in which a report is required as of December 31 next preceding. The Treasurer may postpone the reporting date upon written request by any person required to file a report.

(5) If the holder of property presumed abandoned under the provisions of this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the required report, endeavor to communicate with the owner and take reasonable steps to prevent abandonment from being presumed. The mailing of notice to the last-known address of the owner by the holder shall constitute compliance with this subsection and no further act on the part of the holder shall be necessary.

(6) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(7) Every person who is requested in writing by the treasurer shall file a report stating that such person is not holding any abandoned property which is reportable pursuant to the provisions of this section.

(8) The initial report filed under this chapter shall include all items of property that would have been presumed abandoned if this chapter had been in effect since July 1, 1969, and all such property shall be subject to the provisions of this chapter.

* * * *

§ 89-12-29. Payment or delivery of abandoned property to treasurer.

Every person who has filed a report under the provisions of section 89-12-23 shall, within twenty (20) days after the time specified in section 89-12-27 for claiming the property from the holder, or, in the case of sums pay-

able on traveler's checks or money orders presumed abandoned under the provisions of section 89-12-5 or any other property reported pursuant to the provisions of section 89-12-23 without the name of the owner, at the time of filing the report, pay or deliver to the treasurer all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 89-12-27 or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the treasurer, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

MISSOURI

Mo. Ann. Stat. §§ 447.503 to 447.543 (Vernon 1986 & Supp. 1989) by Mo. House Bill No. 506, 85th General Assembly (effective August 28, 1989)

447.503. Definitions.

As used in sections 447.500 to 447.585, unless the context otherwise requires:

* * * *

(2) "Business association" means any corporation, joint stock company, business trust, partnership, limited partnership, or any association for business purposes, or any mutual fund or other similar entity, whether operating in the form of a corporation or a trust, including but not limited to any investment companies registered under the federal Investment Company Act of 1940;

(3) "Director" means the director of the department of consumer affairs, regulation and licensing;

* * * *

(5) "Holder" means any person in possession of property subject to sections 447.500 to 447.585, belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to sections 447.500 to 447.585;

* * * *

(7) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust except a trust defined in section 456.500, RSMo, the unclaimed property of which has not escheated pursuant to the provisions of section 456.650, RSMo, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to sections 447.500 to 447.585, or his legal representative;

(8) "Person" means any individual, business association, government or political subdivision, public corpora-

tion, public authority, estate, trust except a trust defined in section 456.500, RSMo, two or more persons having a joint or common interest, or any other legal or commercial entity;

(9) "Treasurer" means the Missouri state treasurer;

* * * *

447.520. Stock, certificates of ownership—dividend profit —distribution or interest payment, held or owing by business association presumed abandoned, when

1. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it within seven years after the date prescribed for payment or delivery, is presumed abandoned if:

(1) It is held or owing by a business association organized under the laws of or created in this state; or

(2) It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

2. Any intangible interest in a business association, as evidenced by the stock records or membership records of the association, is presumed abandoned if:

(1) The interest in the association is owned by a person who for more than seven years has neither claimed a dividend or other sum nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association; and

(2) The association does not know the location of the owner at the end of such seven-year period. With respect to such interest, the business association shall be deemed the holder.

3. Any dividend or other distribution held for or owing to a person at the time the stock or other security to which such dividend or other distribution attaches, is considered abandoned at the same time.

* * * *

447.535. All other intangible property presumed abandoned, when

All intangible personal property, not otherwise covered by sections 447.500 to 447.585, including any income or increment thereon, and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned. Intangible personal property where the property is held in a jurisdiction in which the abandonment presumption is less than seven years shall be accepted by the state of Missouri.

* * * *

447.539. Report to Director on property presumed abandoned—content—filed, when extension of filing time—location of owner, duties.

1. Every person holding funds or other property, tangible or intangible, presumed abandoned under sections 447.500 to 447.585 shall report to the director with respect to the abandoned property as provided in this section.

2. The report shall be verified by the person filing the report and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the

holder to be the owner of any property of the value of fifty dollars or more presumed abandoned under sections 447.500 to 447.585;

(2) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under fifty dollars each may be reported in aggregate;

(3) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(4) Other information under the control of the holder which the director prescribes by rule as necessary for the administration of sections 447.500 to 447.585. However, the director shall not request a history of fees and charges on the property in question for information prior to the cut-off date for reporting. Should the case be referred to the attorney general for legal action, he may examine records that are retained under the authority of the entities record retention law.

3. If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

4. Except for the year ending June 30, 1984, the report shall be filed before November first of each year as of June thirtieth next preceding, but the report of life insurance corporations shall be filed before May first of each year as of December thirty-first next preceding. The report for the year ending June 30, 1984, may be combined with the report for the year ending June 30, 1985, and may be included in the report due on November 1, 1985. The director may extend the reporting deadline for a period of not more than thirty days upon written request by any person required to file a report.

5. If the holder of property presumed abandoned under sections 447.500 to 447.585 knows the whereabouts of the owner, if the owner's claim has not been barred by the statute of limitations, and the property involved is valued at fifty dollars or more the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise such reasonable and necessary diligence as is consistent with good business practice to ascertain the whereabouts of such owner of property valued at fifty dollars or more.

6. Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or corporation, by an officer.

* * * *

447.543. Delivery of property to director, when—retention of approved costs—errors of presumption, procedure—abandoned fund account established —payment of claims.

1. Every person who has filed a report under section 447.539 shall pay all moneys to the treasurer and deliver to the director all other abandoned property specified in the report at the time of filing the report, provided the holder may retain from any such moneys the reasonable costs of complying with sections 447.500 to 447.585, which costs shall be approved by the director. The director shall approve such costs provided such costs are not unreasonable given the facts and circumstances of each case. The holder may recover the total bona fide costs for compliance with sections 447.500 to 447.585. If the owner establishes his right to receive the abandoned property to the satisfaction of the holder before such report is filed, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property as required in this subsection, which will no longer be presumed abandoned, but in lieu thereof shall file a verified written explanation of the proof of

claim or of the error in the presumption of abandonment with the director.

2. The treasurer shall record the name and the last known address of each person appearing from the holders' reports to be entitled to the abandoned funds and cause such funds to be deposited in the special account known as the "Abandoned Fund Account", which is hereby created. The abandoned fund account created by this section shall be the successor-account to the abandoned fund account previously in the state treasury and all funds in such accounts on August 13, 1984, shall be transferred to the abandoned fund account created by this section. Records made herein shall be available for public inspection at all reasonable business hours; exept [sic] that, the records shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property presumed abandoned who charge any service or finder's fee until ninety days after the names of the people to whom property is owed have been published or officially disclosed. From this account the treasurer shall make prompt payment of claims duly allowed by the director as hereinafter provided. At any time when the balance of the account exceeds fifty thousand dollars, the treasurer may, and at least once every fiscal year shall, transfer to the general revenue of the state of Missouri the balance of the abandoned fund account which shall exceed fifty thousand dollars. Should any claims be allowed or refunds ordered which reduce the balance to less than twenty-five thousand dollars, the treasurer shall transfer from the general funds of the state an amount which is sufficient to restore the balance to fifty thousand dollars.

NEW HAMPSHIRE

N.H. Rev. Stat. Ann. §§ 471-C:1 to 471-C:21 (Supp. 1988)

471-C:1. Definitions.

As used in this chapter, unless the context otherwise requires:

I. "Administrator" means the state treasurer.

II. "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

* * * *

V. "Business association" means a non-public corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of 2 or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

VI. "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an incorporated person.

VII. "Escheat", except in RSA 471-C:30, means the presumption of abandonment of property followed by:

(a) Immediate proceedings for the taking of title; or

(b) The required delivery to the state followed by immediate proceedings for the taking of title; or

(c) Completion of proceedings in RSA 471-C:30 followed by payment or delivery of property to the appropriate county treasurer.

* * * *

IX. "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee; or

(c) Indebted to another on an obligation.

* * * *

XI. "Intangible property" includes:

(a) Moneys, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) Stocks and other intangible ownership interests in business associations;

(d) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Amounts due and payable under the terms of insurance policies, except amounts due under claims instruments which require acceptance by the claimant or which, by their terms, are void if not presented within a definite time; and

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

XII. "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

XIII. "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal

or equitable interest in property subject to this chapter or his legal representative.

XIV. "Person" means an individual, business association, state or other government, governmental subdivision or agency, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

XV. "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

* * * *

471-C:2. Property Presumed Abandoned.

I. Except as otherwise provided in this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than 7 years after it became payable or distributable is presumed abandoned.

II. Property is payable or distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

471-C:3. General Conditions Precedent to Presumption of Abandonment.

Unless otherwise provided, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under RSA 471-C:2 or RSA 471-C:5-18 are satisfied and: [Amended 1988, 256:1, eff. June 29, 1988.]

I. The last known address, as shown on the records of the holder, of the apparent owner is in this state;

II. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this state;

III. The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(a) The last known address of the person entitled to the property is in this state; or

(b) The holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

IV. The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

V. The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or

VI. The transaction out of which the property arose occurred in this state; and

(a) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

(b) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of

the property or its escheat or unclaimed property law is not applicable to the property.

* * * *

471-C:10. Stock and Other Intangible Interests in Business Associations.

I. Except as provided in paragraphs II and V, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for 7 years and the owner within 7 years has not:

(a) Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

(b) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

II. At the expiration of a 7-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least 7 dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If 7 dividends, distributions, or other sums are paid during the 7-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable. If 7 dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been 7 dividends, distributions, or other sums that have not been claimed by the owner.

III. The running of the 7-year period of abandonment ceases immediately upon the occurrence of a communication referred to in paragraph I. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

IV. At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

V. This chapter does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within 7 years communicated in any manner described in paragraph I.

* * * *

471-C:19. Report of Abandoned Property.

I. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this section.

II. The report must be verified and shall include:

(a) Except with respect to travelers checks and money orders, tne name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of $25 or more presumed abandoned under this chapter;

(b) In the case of the unclaimed funds of $25 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

(c) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under $25 each may be reported in the aggregate;

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and

(f) Other information the administrator prescribes by rules adopted, pursuant to RSA 541-A, relative to the administration of this chapter.

III. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed his name while holding the property, he shall file with his report all known names and addresses of each previous holder of the property.

IV. The report shall be filed before November 1 of each year for property presumed to be abandoned as of June 30 of that year, but the report of any life insurance company shall be filed before May 1 of each year for funds owing under life insurance policies presumed to be abandoned as of December 31 of the preceding year. On

written request by any person required to file a report, the administrator may postpone the reporting date.

V. Not more than 120 days before filing the report required by this section, the holder in possession of property abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

(b) The claim of the apparent owner is not barred by the statute of limitations; and

(c) The property has a value of $25 or more.

• • • •

471-C:21. Payment or Delivery of Abandoned Property.

I. Except as otherwise provided in paragraphs iI and III, a person who is required to file a report under RSA 471-C:19, within 6 months after the final date for filing the report as required by RSA 471-C:19, shall pay or deliver to the administrator all abandoned property required to be reported.

II. If the owner established the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the administrator, and the property shall no longer be presumed abandoned. In that case, the holder shall file with the administrator a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

III. Property reported under RSA 471-C:19 for which the holder is not required to report the name of the apparent owner must be delivered to the administrator at the time of filing the report.

IV. The holder of an interest under RSA 471-C:10 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the administrator. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with the provisions of RSA 471-C:22 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery to the administrator of the duplicate certificate.

WEST VIRGINIA

W.Va. Code §§ 36-8-1 to 36-8-13 (1985)

§ 36-8-1. Definitions and use of terms.

As used in this article, unless the context otherwise requires:

* * * *

(b) "Business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals.

* * * *

(d) "Holder" means any person in possession of property subject to this article belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this article.

* * * *

(f) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this article, or his legal representative.

(g) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity; but shall not include any retirement system supported entirely or in part by the State of West Virginia.

* * * *

§ 36-8-5. Undistributed dividends and distributions of business associations.

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business associa-

tion for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, is presumed abandoned if:

(a) It is held or owing by a business association organized under the laws of or created in this State; or

(b) It is held or owing by a business association doing business in this State, but not organized under the laws of or created in this State, and the records of the business association indicate that the last-known address of the person entitled thereto is in this State.

* * * *

§ 36-8-9. Miscellaneous personal property held for another person; exception; prohibiting the levying of charges on inactive savings accounts.

All personal property not otherwise covered by this article, including any income or increment thereon and after deducting any lawful charges, that is held or owing in this State in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned: Provided, that this section shall not apply to such property held or owing by a utility prior to one thousand nine hundred fifty-seven: Provided, however, that notwithstanding the provisions of section two [§ 36-8-2] of this article, no banking or other financial organization or institution shall, after the effective date of this section [June 6, 1984], demand, collect, charge or contract to receive any charge due to dormancy or inactivity on any interest bearing savings or time deposit for any period of time prior to the withdrawal of such funds by the depositor, his personal agent or representative, or the accrual under this article of the right

of the State to deposit or sell as abandoned property any such deposit. For purposes of this proviso, any interest bearing savings or time deposit shall be deemed to be dormant or inactive if the depositor, his personal agent or representative has not within the immediately preceding two years increased or decreased the amount of the deposit.

* * * * *

§ 36-8-11. Report of abandoned property.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this article shall report to the State treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) The name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of fifty dollars or more presumed abandoned under this article;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last-known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under fifty dollars each may be reported in aggregate;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the State treasurer prescribes by rule as necessary for the administration of this article.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the

property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November first of each year as of June thirtieth next preceding, but the report of life insurance corporations shall be filed before May first of each year as of December thirty-first next preceding. The State treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this article knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, attempt to communicate with the owner so that the owner may take necessary steps to prevent abandonment from being presumed. A notice from the holder to the owner sent to the owner's last-known address by United States mail, postage prepaid, shall satisfy the requirements of this subsection (e).

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer, and if made by a public corporation, by its chief fiscal officer.

(g) The initial report filed under this article shall include all items of property which, under the provisions hereof, would have been presumed abandoned on the effective date of this article [July 1, 1967] had this article been in effect on July one, one thousand nine hundred fifty-two.

(h) The State treasurer may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that the person has failed to report property that should have been reported pursuant to this section.

If an examination of the records of a person results in disclosure of property reportable and deliverable under this section, the treasurer may assess the cost of the examination against the holder at a rate established by administrative regulation promulgated pursuant to chapter twenty-nine-A [§ 29A-1-1 et seq.] of this code, but in no case may the charges exceed the value of the property found to be reportable and deliverable.

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§ 36-8-13. Payment or delivery of abandoned property.

Every person who has filed a report as provided by section eleven [§ 36-8-11] shall within twenty-five days after the time specified in section twelve [§ 36-8-12] for claiming the property from the holder pay or deliver to the State treasurer all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section twelve, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the State treasurer, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.